Ct-1006

(4)

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

W.P.NO. 2561 / 2005

Petitioner : District Cooperative Central Bank Ltd. Bilaspur. Through The Chief Executive Officer District Cooperative Central Bank Ltd. Bilaspur.(C.G.)

Versus

Respondents :1. Additional Registrar, Cooperative Socites, Telibandha Raipur (C.G.)

2. Joiit Registrar, Cooperative Societies The Supdt.Engineer, Telibandha Raipur (C.G.)

3. Assistant Registrar . Cooperative Socities, Janjgir, Distt. Janjgir- Champa (C.G.)

4. Ramesh Kumar Gabel S/o Gowarthan Prasad Gabel . Village Masaniakala, Tahsil Sakti,Disst. Janjgir- Champa (C.G.)

P.R. No. 2656/05 Presented by Shri D.P.Pathak dated 16/6/05

WRIT PETITION UNDER ARTICLE 226 / 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF SUITABLE WRIT, WRITS, DIRECTION ETC TO DO JUSTICE IN THE MATTER.

HIGH COURT OF CHHATTISGARH AT BILASPUR

S.B.: Hon'ble Mr. Justice N.K. Agarwal

W.P. No.2561 of 2005

PETITIONER District Cooperative Central Bank Ltd., Bilaspur

Versus

RESPONDENTS Additional Registrar, Cooperative Societies and others

WRIT PETITION UNDER ARTICLE 226/ 227 OF THE CONSTITUTION OF INDIA

Appearance :

Mr. S.L. Kurmi, Counsel for the petitioner.
Mr. MPS Bhatia, Government Advocate for the State/respondents 1 to 3.
Mr. Varun Sharma, Counsel for respondent No.4.

ORAL ORDER
(18.10.2013)

Heard.

(2) The instant petition filed under Article 226/227 of the Constitution of India assails the legality and propriety of the order dated 27.04.2005 passed by Additional Registrar, Cooperative Societies, Chhattisgarh in Second Appeal No.77(2) (1) 53/04.

(3) The facts in brief necessary for disposal of this petition are that : respondent No.4, who was working as Society Manager, was suspended by the petitioner vide

order dated 10.04.1995 on the alleged charge of embezzlement of Rs.4,38,056.90. Thereafter, the enquiry was conducted and having found respondent No.4 guilty, he was terminated from service vide order dated 12.09.1997. The above termination order was challenged by respondent No.4 under Section 55(2) of the M.P./C.G. Co-operative Societies Act, 1960 (hereinafter referred to as "the Act") before the Deputy Registrar. The Deputy Registrar after considering the material placed before him by both the parties, set-aside the order of termination and directed for respondent No.4's reinstatement with back wages. The first appeal preferred there-against by the petitioner was dismissed. The second appeal preferred by the petitioner was also dismissed vide the impugned order. Hence, this petition.

(4) Mr. S.L. Kurmi, learned counsel appearing on behalf of the petitioner, while admitting the fact that respondent No.4 has now retired and pursuant to the order of this Court passed in Contempt Petition No.69/2007, the back wages have also been paid to him, would submit that respondent No.4 was guilty of embezzlement of huge amount of Rs.4,38,056.90 and therefore, the order of his reinstatement with back wages is not sustainable in law. Learned counsel while referring to Annexure P/9, which is

allegedly typed copy of the statement of Ramesh Kumar Gabel (respondent No.4), would also submit that Ramesh Kumar has admitted the factum of embezzlement.

(5) On the other hand, Mr. Varun Sharma, learned counsel appearing on behalf of respondent No.4, would submit that the Additional Registrar, Cooperative Societies has decided the dispute in respondent No.4's favour by setting aside the order of termination and by directing for his reinstatement with back wages. The above order was confirmed by the First Appellate Co-operative Court as well as by the Second Appellate Co-operative Court. There is no illegality in the impugned order, the findings are well founded and hence, the petition is misconceived and deserves to be dismissed.

(6) I have heard learned counsel for the parties and perused the paper book.

(7) First of all, the certified copy of the statement of Ramesh Kumar Gabel (respondent No.4) is not filed. The typed copy filed by the petitioner is as vague as it could be. Moreover, there is nothing in the statement suggesting any admission of embezzlement by Ramesh Kumar Gabel. There is also no such finding recorded by any of the Co-operative Courts below while passing the order(s).

(8) Learned counsel for the petitioner could not point out any illegality or perversity in the concurrent findings recorded by the Co-operative Courts below. The point raised by the petitioner herein that the factum of embezzlement has been admitted by respondent No.4 is also not based on facts. Judicial review generally speaking, is not directed against a decision, but is directed against the "decision making process".

(9) After considering the arguments advanced by learned counsel for the parties and after perusing the paper book, I do not find any illegality, irrationality or procedural impropriety in the impugned order warranting interference of this Court under Article 226/227 of the Constitution of India.

(10) Indisputably, the amount of back wages has already been paid to respondent No.4, he has also retired and so also nothing survives for adjudication in the matter.

(11) For the reasons mentioned above, the petition being devoid of merits is liable to be and is accordingly dismissed. No order as to cost(s).

Sd/-
N.K. Agrawal
Judge

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